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ABSTRACT

In 1984 the Education Department (ED) began to monitor state education agencies' (SEA) administration of the education block grant known as "Chapter 2." ED staff visited 21 states, the District of Columbia, and Puerto Rico and found many serious problems among the SEAs and local education agencies (LEAs). The problems are divided into five major areas with the percentages of states having problems in each area cited as follows: (1) public and parent involvement, 56 percent; (2) SEA controls over SEA programs, 52 percent; (3) SEA monitoring of LEA programs, 83 percent; (4) SEA/LEA oversight of private participation, 70 percent; and (5) SEA/LEA guarantees of private participation, 78 percent. Within these areas, of the 87 different items identified as needing correction, 39 percent concerned private school participation and, of these, 62 percent concerned assurances of maximum benefit, rather than controls over possible abuse. Although ED holds the SEAs responsible for assuring that the program is run properly in local districts, the law, regulations, and ED's "non-regulatory guidance" (NRG) are ambiguous about SEA authority. Ironically, ED can justify compromising the Administration's policy of noninterference by pointing out that it must ensure that states guarantee maximum benefit to children in private schools. (MLF)

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An Introduction

For the past three years, NCCE has provided an information clearinghouse on Chapter 2, the education block grant, with support from the Charles Stewart Mott Foundation. The ultimate aim of our monitoring the program from the parent/citizen perspective is to assess Chapter 2 as public policy: Has it lead to improvement in education? Are federal programs more responsive to community needs? Is the block grant approach an effective way to deliver education services? Who benefits, and who decides who benefits?

The no-strings attached character of Chapter 2 has prompted some serious questions about responsibility and accountability. In a program where the law rests final discretion at the local level and sharply discourages paperwork, reporting, and regulation, how can it be assured that funds are properly used and that the program is worth the taxpayers' money? There has been little authoritative direction from the Education Department (ED) or Congress on either point.

In 1984, the ED began an effort to monitor State Education Agency (SEA) administration of Chapter 2, visiting 21 states, the District of Columbia, and Puerto Rico, to assess the adequacy of their fiscal and administrative mechanisms to assure compliance and prevent abuse. They found some serious problems:

- Nineteen states (over 80% of those studied) do not adequately monitor local education agencies (LEAs) for compliance with program provisions and proper use of funds.

- Twelve states do not have proper administrative or fiscal controls over the SEA 20% program.
- Six states have not adequately consulted the State Advisory Committee (SAC) on major decisions or on how the program should be evaluated. In three states, the SAC is inactive.
- In eleven states, there was inadequate monitoring of whether funds for private school children were used for "secular, neutral, and non-ideological" purposes.
- In seven states, there was inadequate monitoring of whether private school funds were benefitting children rather than schools.
- Nine states did not ask LEAs to provide information on the amount and use of funds for private schools.
- Twelve states did not take adequate measures to assure equal per-pupil expenditures for private schools.

Looking Back

Although ED in making these determinations holds the SEA responsible for assuring that the program is run properly in local districts, the law, regulations, and ED's "Non-Regulatory Guidance" (NRG) are ambiguous about SEA authority. The phrase "monitoring compliance" does not appear in any Chapter 2 documents until the Technical Amendments of late 1983 (well over a year after the program went into effect), and the mention is a backhanded one: the SEA must assure that "apart from technical and advisory assistance and monitoring compliance with this Chapter, the SEA has exercised...no influence in the decisionmaking processes of the LEAs as to the expenditures made..." (sec. 9(b), emphasis added)

When the New Jersey Chapter 2 Coordinator asked ED to interpret "monitoring compliance," Assistant Secretary Davenport wrote back, "How an SEA ensures compliance is the SEA's decision." The new provision "does not specifically require monitoring. There may be other measures that an SEA can also utilize to ensure compliance."

It is not surprising, then, that SEA administrative and supervisory practice varies widely, from actively providing technical assistance and visiting LEAs, to supplying assistance only on request and not monitoring on-site at all.

The Turn of the Screw

In April 1984, the American Association of School Administrators (AASA) published a report, "Private School Participation in Chapter 2." Based on a survey of 34 larger school districts, the AASA found that most LEAs do not feel it is their job to monitor private school eligibility for Chapter 2, and that many LEAs do not share their "high cost" funds with private schools. (State Chapter 2 formulas are based on enrollment and adjusted to help districts with the extra costs of educating children with special needs).

The first finding raises serious questions about the constitutionality of private school aid, and the second indicates that private schools are not benefitting from Chapter 2 to the maximum extent possible. While the Administration strongly supports a "hands-off"policy for the program as a whole, it nevertheless feels that maximum benefit for private school children should be firmly enforced.

More Detail

The ED monitoring reports reflect a preoccupation with the private school issue. Of the 87 different items identified as needing correction, 39% (34) concerned private school participation. Of these, 62% (21) concern assurances of maximum benefit,

rather than controls over possible abuse.

The ED program staff found other major areas of difficulty as well. Chart I (which is placed at the back of this paper) divides the problems into five major areas and shows their frequency state by state. Chart II gives the total number and percentage of states cited by area:

PROBLEMS IN CHAPTER 2 ADMINISTRATION: CHART I

	Number of States Cited
1. Public and Parent Involvement	
o Consultation with SACs	6
o Public Information Requirements	3
o "Systematic Consultation" with parents, educators, by LEA	8
	13/56%*
2. SEA Controls over SEA Program	
o Administrative Oversight	5
o Evaluation Strategy	6
o Audits	2
	12/52%*
3. SEA Monitoring of LEA Programs	
o On-site, periodic monitoring of compliance	11
o Audit requirements	12
o Evaluation	2
o Application Information	6
	19/83%*
4. SEA/LEA Oversight of Private Participation	16/70%
5. SEA/LEA Guarantees of Private Participation	18/78%

Total Number of states + D.C. and P.R. = 23
* Because some states had more than one problem, the totals are smaller than the numbers of states given in each category.

What this means, to sum up, is that most SEAs were unable to demonstrate to the ED staff that their administrative and fiscal controls were sufficient to assure compliance and prevent abuse. For example, in the area of "SEA Monitoring of LEA Programs," ED found that 11 states do not visit LEAs to check for compliance, either at all (8) or frequently enough (3), that 11 states have not fulfilled their audit responsibility in some way, and that 6 states do not require LEAs to give adequate information on how program funds will be used.

In "SEA/LEA Controls over Private Participation," ED found 6 states where the use of funds by private schools was not monitored to assure that it was "secular, neutral, and non-ideological," and 4 states where it was not assured that benefits were for children, not the private school. (Although ED was not looking for violations of the law, they did find some private school that were using computers bought with Chapter 2 funds to update alumni mailing lists and make classroom assignments).

Another serious problem area is parent and public involvement. ED found that 6 states had not adequated consulted their State Advisory Committees (SACs) on major decisions; in 3 of them, the SAC is inactive. Also, in 8 states the SEA has not properly ensured that LEAs have consulted with parents, teachers, administrators and other groups on major program decisions.

New Federal Policy

In this monitoring exercise, the ED clearly intended to establish certain basic standards by which to judge an SEA's administrative performance. In effect, ED has created new federal

policy by extending the regulations and the NRG.

State Advisory Committees: To satisfy the requirement for "active and continuing consultation," SEAs must call regular meetings of the SAC. All major decisions must be presented, even if the legislature has the authority to review or veto them. (AZ, SD, MT)

Public Notice and Dissemination: Information on Chapter 2 must be actively disseminated, not just open for public inspection, and sent out "beyond the education establishment." (GA, MN)

Audits: The SEA is responsible to conduct both fiscal and compliance audits of the SEA and LEAs every two years (unless the LEA receives less than $1000, where it is every 5 years). "There is no provision for waiver of this requirement," and auditors should be trained in compliance provisions. (AZ, GA)

Monitoring: In addition to auditing, SEAs must also monitor LEAs for compliance, to prevent audit exceptions from occuring. Monitoring means "on-site visits" of all LEAs, "to conduct program reviews on a periodic basis," at least every three years. (AZ, MO, MN, MT, OK)

Administration of SEA 20% Program: One person, or unit, must be given the authority to oversee all Chapter 2-funded operations in the SEA and to collect monthly expenditure reports. (GA, NC)

Evaluation: The evaluation requirements in the law apply to both the state program and the LEA programs. The SAC must be consulted about the SEA evaluation strategy before it is implemented. (AZ, ND)

LEA Applications: The LEA application form should require information on expenditures by program, not subchapter, on the number of private school children participating, and on the amount and use of funds for private schools. (NM, DC, DL, SD)

Conclusion

It is generally the pattern that new federal programs go through a period of testing. At first, the rules are very general and controls are loose. Then, as critical reports are published and monitoring gets underway, standards develop, ex post facto. By the time they are clearly formulated, state and local practice

varies so widely that some inevitably is considered outside the pale.

This is exactly what has happened with Chapter 2. When the ECIA was enacted, the mood in Washington was reminiscent of the Cultural Revolution in China: Let 100 flowers bloom, let 100 schools of though contend. Remove the fetters of red tape, and local communities will be free to devise creative solutions to their own needs. While some may have risen to the occasion -- the jury is still out on creative solutions -- others seem to have allowed the program to drift into an untidy state of indirection.

Karl Marx remarked that all events in history happen twice, the first time as tragedy, the second as farce. First, we had Title I, when it took us five years to learn that federal funds were not helping poor children. Now we have Chapter 2, where it has taken us three years to learn that we don't know whether it has helped anybody.

The problem is not in the SEAs, but, at bottom and in seed form, in the law itself. ED's reluctanct to clarify matters, in the regulations, which only repeat the law, or in its appropriately named Non-Regulatory Guidance, or even in its correspondence, provided fertile soil. And so the problems have sprouted.

Now, predictably, it is time to tighten up. In monitoring the SEAs, the ED program staff was doing what it had to do, getting clear standards for performance that all can recognize and live with. Ironically, ED can justify compromising the Administration's policy of non-interference by pointing out that it must ensure that states guarantee maximum benefit to children in private schools.

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CHART 1: 1984 CHAPTER 2 PROGRAM REVIEWS

Problems Identified	AL	AZ	DL	DC	GA	HI	LA	MD	MN	MO	MT	NH	NM	NC	ND	OH	OK	OR	PR	RI	SD	WV	WY
1. Parent and Public Involvement																							
o State Advisory Committee not consulted on:																							
- an active basis		x					x	x			x										x	x	
- SEA 20% program		x																			x		
- SEA program evaluation		x																			x		
o SEA public information requirements not met.		x			x				x														
					x				x														
o SEA monitoring of LEA systematic consultation with parents not adequate.		x					x							x				x	x				x
							x	x						x			x						
2. SEA Controls over State 20% not adequate.	x	x	x		x		x			x	x	x		x	x							x	x
														x	x								
3. SEA Monitoring of LEA Programs not adequate.		x								x	x						x	x			x		
	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x				x	x	
4. SEA/LEA Monitoring of Private School Participation														x									
									x					x		x			x				x
o Inadequate to prevent abuse		x		x	x			x	x	x				x	x	x			x	x			x
				x												x							
o Application form does not request private school info.				x	x						x	x		x				x			x		x
5. SEA/LEA Assurance of Private School Participation Inadequate																							
					x																		
o In SEA programs		x	x		x		x		x				x							x		x	
			x			x		x					x					x	x				
o In LEA programs		x	x			x	x	x			x		x	x	x	x		x	x		x	x	x
						x		x										x					